

phrase “substantially infinite” has been canceled from Claim 1 to provide definiteness to the length of the web.

### **Rejections**

Claims 21-23 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants respectfully traverse this rejection.

The Office Action indicates that the description of a “substantially infinite length” of web lacks clarity. Applicants have amended this to simply require that the web have a length. Reconsideration and withdrawal of this rejection is earnestly solicited.

Claims 21-23 stand rejected under 35 USC §103(a) as being unpatentable over Friese, US Pat. No. 4,816,100 in view of Etheredge et al. US Pat. No. 5,928,184 (“Etheredge”). Applicants respectfully traverse this rejection.

The present invention relates to a method for the manufacture of a tampon, and it comprises several specific steps. The steps include (a) providing a web of liquid-permeable, thermoplastic apertured film, (b) forming a line of weakness comprising perforations and scores extending substantially from the first edge to the second edge, (c) applying a force substantially parallel to the length of the web sufficient to separate an individual sheet from the web at the line of weakness, (d) positioning the individual sheet over an absorbent sliver, (e) attaching the individual sheet to the absorbent sliver, (f) forming the absorbent sliver into a tampon blank, and (g) compressing the tampon blank to form a substantially cylindrical, compressed tampon having a cover comprising the individual sheet. (Page 5, line 16- page 6, line 2.) The web has opposed first and second edges and a substantially infinite length. (Page 4, lines 13-15.)

Materials that are suitable for use as the liquid permeable sheet include materials such as polymeric films, fibrous nonwovens, foams, paper, and woven fibers. (Page 11, lines 13-16.) A representative, non-limiting list of polymeric films that may be used with the present invention include polyolefins, such as polypropylene and polyethylene; polyolefin copolymers, such as ethylene-vinyl acetate (“EVA”), ethylene-propylene, ethylene-acrylates, and ethylene-acrylic acids and salts thereof; halogenated polymers;

polyesters and polyester copolymers; polyamides and polyamide copolymers; polyurethanes and polyurethane copolymers; and the like. (Page 11, lines 18-27.) The polymeric films may be apertured and/or embossed. (Page 11, line 28.) Films containing embossments and voids, such as apertures, may require engineering optimization. (Page 12, lines 1-4.) However, the invention of Claims 21-23 requires, *inter alia*, “unwinding a web of liquid-permeable, thermoplastic apertured film” (emphasis added).

Friese discloses a tampon for feminine hygiene having a cover formed of a liquid permeable, thermoplastic strip section that is heat-sealed to the outside of a nonwoven ribbon section. (Column 2, lines 45-48.) The strip section is further described as a nonwoven liquid permeable thermoplastic. (Column 3, lines 43-44.) Cutting rollers cut through the strip in a transverse direction substantially but not completely, so that the leading strip section formed as a result of cutting is still joined to the following strip by means of some small so-called webs. (Column 8, lines 42-46.) The strip section coming from the cutting station is sucked against the circumference of the vacuum roller and in a stretched position, is carried in a clockwise direction in the nip formed by the vacuum roller with the acceleration roller. (Column 8, lines 61-66.) The strip section is accelerated to double the speed and is consequently torn off completely from the following nonwoven strip in the region in the cut made in the cutting station. (Column 8, line 68 to Column 9, line 4.)

Etheredge purports to disclose a multilayer absorbent article that includes a layer of non-absorbent material formed into a tunnel-shaped loop enclosing absorbent material. An overwrap material, in turn, encloses the tunnel-shaped loop of non-absorbent material. Etheredge indicates that the non-absorbent material has ports or “a multitude of small perforations” to permit fluid to be transported into the absorbent core. Allegedly “the appropriate size and number of ports” “can be determined by one skilled in the art” (Column 4, lines 32-48).

The Office alleges that Friese discloses a method for the manufacture of a tampon similar to the presently claimed invention but that the reference discloses a thermoplastic non-woven material (not an apertured film) and the use of perforations (instead of a combination of perforations and scoring) to form the line of weakness. The Office continues and alleges that Etheredge discloses the use of an apertured film in the

manufacture of tampons. The argument that it would have been obvious to one of ordinary skill in the art to have provided Friese with an apertured film in place of the non-woven thermoplastic strip to allow more uniform wetting of the tampon surface, etc. However, in order to overcome the failure to find a suggestion to incorporate perforations and scoring in forming the line of weakness the Office resorted to "Official notice that one of ordinary skill in the art would recognize that different materials ... would require further weakening of the tear line, including differently shaped perforations, scoring, or intermittent grooving." (Paper 14 at 4)

Applicants respectfully submit that the present rejection has at least two failings. First, it fails to find an important element of the claimed invention in either of the prior art references applied, therefore it applies the Examiner's own view of what a skilled artisan would or would not recognize and try. Secondly, at best even this Official notice is an improper "Obvious to Try" rejection. This is inherent in the language of the rejection listing several alternatives that may or may not be effective in overcoming the unknown problems Applicants faced in replacing a nonwoven fabric with an apertured film.

For these reasons, Applicants respectfully submit that the Office Action fails to establish a prima facie case of obviousness of the presently pending claims. Reconsideration and withdrawal of this rejection are earnestly solicited.

Applicants believe that the foregoing present a full and complete response to the outstanding Office Action. Applicants look forward to an early notice of allowance for this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Joel A. Rothfus', written over a horizontal line.

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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

Claim 21 is reproduced below, identifying the changes made.

21. (Amended) A method for the manufacture of a tampon comprising the steps of:

- a) [unwinding] providing a web of liquid-permeable, thermoplastic apertured film, the web having opposed first and second edges and a [substantially infinite] length;
- b) forming a line of weakness comprising perforations and scores extending substantially from the first edge to the second edge;
- c) applying a force substantially parallel to the length of the web sufficient to separate an individual sheet from the web at the line of weakness;
- d) positioning the individual sheet over an absorbent sliver;
- e) attaching the individual sheet to the absorbent sliver;
- f) forming the absorbent sliver into a tampon blank; and
- g) compressing the tampon blank to form a substantially cylindrical, compressed tampon having a cover comprising the individual sheet.